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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
VAC.331.1

First named inventor: **Richard Vogel**

Application No.: **09/458,280**

Group Art Unit: **3736**

Filed: **December 10, 1999**

Examiner: **DeMille, Danton**

Title: **THERAPEUTIC APPARATUS FOR TREATING ULCERS**

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$**\$1,280** (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of **Response & Amendment** (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$_____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

6-7-2002

Date

Eric W. Cernyar

Signature

Telephone

Number: (210) 863-0063

Eric W. Cernyar

Typed or printed name

Kinetic Concepts, Inc., P.O. Box 659508

Address

San Antonio, TX 78265-9508

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Revocation & New Power of Atty, Change Corr. Address

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

6-7-2002

Date

Eric W. Cernyar

Signature

Eric W. Cernyar

Type or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	09/458,280
Filing Date	05/27/2002
First Named Inventor	Vogel et al.
Group Art Unit	3736
Examiner Name	DeMille
Attorney Docket Number	VAC.331.1

Total Number of Pages in This Submission

30

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 37 CFR 3.73(b) statement Statement regarding unintentional delay return postcard
Remarks 		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Eric W. Cernyar
Signature	<i>Eric W. Cernyar</i>
Date	6-7-2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 6-7-2002

Typed or printed name	Eric W. Cernyar		
Signature	<i>Eric W. Cernyar</i>	Date	6-7-2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL
for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$) 1280.00**Complete if Known**

Application Number	09/458,280
Filing Date	12/10/1999
First Named Inventor	Vogel
Examiner Name	DeMille
Group Art Unit	3736
Attorney Docket No.	VAC.331.1

METHOD OF PAYMENT

- 1.
- ☒
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number
500-326Deposit Account Name
Kinetic Concepts, Inc.

- ☒
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☐
- Payment Enclosed:**

☐ Check ☐ Credit card ☐ Money Order ☐ Other**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 740	201 370	Utility filing fee	
106 330	206 165	Design filing fee	
107 510	207 255	Plant filing fee	
108 740	208 370	Reissue filing fee	
114 160	214 80	Provisional filing fee	

SUBTOTAL (1) (\$)**2. EXTRA CLAIM FEES**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent Claims	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 84	202 42	Independent claims in excess of 3
104 280	204 140	Multiple dependent claim, if not paid
109 84	209 42	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 400	216 200	Extension for reply within second month	
117 920	217 460	Extension for reply within third month	
118 1,440	218 720	Extension for reply within fourth month	
128 1,960	228 980	Extension for reply within fifth month	
119 320	219 160	Notice of Appeal	
120 320	220 160	Filing a brief in support of an appeal	
121 280	221 140	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,280	241 640	Petition to revive - unintentional	1280.00
142 1,280	242 640	Utility issue fee (or reissue)	
143 460	243 230	Design issue fee	
144 620	244 310	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Processing fee under 37 CFR 1.17(q)	
126 180	126 180	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 740	246 370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 740	249 370	For each additional invention to be examined (37 CFR § 1.129(b))	
179 740	279 370	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1280.00**SUBMITTED BY**

Name (Print/Type) Eric W. Cernyar

Registration No. 45919
(Attorney/Agent)**Complete (if applicable)**

Telephone (210) 863-0063

Signature

Eric W. Cernyar

Date

6-7-2002

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June 7, 2002

Box DAC
Assistant Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

Re: United States Patent Application
Serial No.: 09/458,280
Entitled: THERAPEUTIC APPARATUS FOR TREATING ULCERS
Date Filed: December 10, 1999
Our Reference No.: VAC.331.1

Dear Sir or Madam:

Enclosed for filing are the following documents:

1. This Transmittal Letter
2. Transmittal Form (w/ certificate of mailing thereon)
3. Fee Transmittal Form (in duplicate)
4. Fee Determination Record (for newly added claims)
5. Petition for Revival of an Application as Unintentionally Abandoned
6. Statement Regarding Unintentional Delay
7. Response to October 4, 2000, Office Action
8. Revocation of Power of Attorney
9. New Power of Attorney
10. Change of Correspondence Address
11. 37 CFR § 3.73(b) statement
12. Assignment Documents
13. Acknowledgement post card

The Commissioner is requested to grant Applicants' Petition to Revive and to pass the application to issue. The Commissioner is hereby authorized to charge any additional fees that may be required to Kinetic Concepts' Deposit Account No. 500326.

Respectfully submitted,

Eric W. Cernyar
Reg. No. 45,919
(210) 863-0063 (mobile)

Enclosures

OK'd
11-7-02
Staten
g